

1 Neil A. Goteiner (State Bar No. 83524)
ngoteiner@fbm.com
2 Deepak Gupta (State Bar No. 226991)
dgupta@fbm.com
3 Farella Braun & Martel LLP
235 Montgomery Street, 17th Floor
4 San Francisco, CA 94104
Telephone: (415) 954-4400
5 Facsimile: (415) 954-4480

Rufus T. Rhoades
RUFUS VONTHULEN RHOADES
P.O. Box 7068
Pasadena, CA 91109-7068
Telephone: (626) 683-4566
Facsimile: (626) 792-0195

Attorney for Defendant
PCCE, INC.

6 Attorneys for Defendants
COMCO MANAGEMENT
7 CORPORATION; CONCORD FUNDING
CO., LLC; METCO MANAGEMENT
8 CORPORATION; MONEX CREDIT CO.;
MONEX DEPOSIT CO.; NEWPORT
9 SERVICE CORP.

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
12 SOUTHERN DIVISION
13

14 UNITED STATES OF AMERICA,
15
16 Plaintiff,

17 vs.

18 COMCO MANAGEMENT
CORPORATION; CONCORD
19 FUNDING CO., LLC; METCO
MANAGEMENT CORPORATION;
20 MONEX CREDIT CO.; MONEX
DEPOSIT CO.; NEWPORT SERVICE
21 CORP.; and PCCE, Inc.,

22 Defendants.
23
24
25
26
27
28

Case No. SACV08-00668 JVS (MLGx)

**DECLARATION OF DEEPAK
GUPTA IN SUPPORT OF
DEFENDANTS' *EX PARTE*
APPLICATION REQUESTING IRS'
RETURN TO DEFENDANTS OF
DEFENDANTS DOCUMENTS
WHICH THE IRS RECEIVED
FROM VINCENT SPONDELLO**

Date: None set.
Time: None set.
Ctrm: 10 C Hon. James Selna

1 I, Deepak Gupta, declare as follows:

2 1. I am an attorney duly admitted to practice in the State of California
3 and am an attorney at the law firm of Farella Braun & Martel LLP ("Farella"),
4 counsel for Defendants Comco Management Corporation, Concord Funding Co.,
5 LLC, Metco Management Corporation, Monex Credit Co., Monex Deposit Co. and
6 Newport Service Corp., Defendants in the above-captioned matter. I have personal
7 knowledge of the matters stated herein, and if called to testify, could and would
8 testify competently thereto.

9 2. Attached hereto as Exhibit 1, is a true and correct copy of relevant
10 excerpts of the August 11, 2009 deposition testimony of Vincent Spondello.

11 3. Attached hereto as Exhibit 2 is a true and correct copy of the LECG
12 Report dated, April 16, 2009.

13 4. Attached hereto as Exhibit 3 is a true and correct copy of a June 2,
14 2009 letter from Robert Coviello to Neil Goteiner.

15 5. Attached hereto as Exhibit 4 is a true and correct copy of the First
16 Amended Complaint for Gross Negligence, Breach of Employee Duty of Loyalty,
17 Conversion, Breach of Contract and Claim and Delivery against Vincent Spondello,
18 dated August 31, 2009.

19 6. Attached hereto as Exhibit 5 is a true and correct copy of a June 4,
20 2009 email from Neil Goteiner to Robert Coviello.

21 7. Attached hereto as Exhibit 6 is a true and correct copy of a June 11,
22 2009 email from Neil Goteiner to Andrew Pribe.

23 8. Attached hereto as Exhibit 7 is a true and correct copy of a May 20,
24 2009 letter from Vince Spondello to Greg Walker.

25 9. Attached hereto as Exhibit 8 is a true and correct copy of the
26 Application for Award for Original Information ("Form 211") with portions
27 redacted, dated May 19, 2009.
28

1 10. Attached hereto as Exhibit 9 is a true and correct copy of the May 30,
2 2009 Legal Memorandum from Robert Stientjes to the Internal Revenue Service
3 (“IRS”) with portions redacted.

4 11. Attached hereto as Exhibit 10 is a true and correct copy of a June 22,
5 2009 email from Neil Goteiner to Robert Coviello.

6 12. Attached hereto as Exhibit 11 is a true and correct copy of a June 24,
7 2009 email from Neil Goteiner to Andrew Pribe.

8 13. Attached hereto as Exhibit 12 is a true and correct copy of a June 24,
9 2009 letter from Andrew Pribe to Neil Goteiner.

10 14. Attached hereto as Exhibit 13 is a true and correct copy of a July 1,
11 2009 letter from Andrew Pribe to Neil Goteiner.

12 15. Attached hereto as Exhibit 14 is a true and correct copy of a February
13 27, 2008 Notice from the Office of Chief Counsel for the Internal Revenue Service,
14 regarding Limitations on Information Contacts.

15 16. Attached hereto as Exhibit 15 is a true and correct copy of a July 21,
16 2009 letter from Andrew Pribe to Neil Goteiner.

17 17. Attached hereto as Exhibit 16 is a true and correct copy of a July 23,
18 2009 email from Neil Goteiner to Andrew Pribe.

19 18. Attached hereto as Exhibit 17 is a true and correct copy of a July 23,
20 2009 letter from Andrew Pribe to Neil Goteiner.

21 19. Attached hereto as Exhibit 18 is a true and correct copy of an August
22 8, 2009 email from Neil Goteiner to Andrew Pribe. It was resent almost
23 immediately to Ms. Brown and Mr. Coker in Mr. Pribe’s absence.

24 20. Attached hereto as Exhibit 19 is a true and correct copy of an August
25 12, 2009 email from Neil Goteiner to Robert Coviello.

26 21. Attached hereto as Exhibit 20 is a true and correct copy of an August
27 28, 2009 email from Neil Goteiner to Andrew Pribe.

28

22. Attached hereto as Exhibit 21 is a true and correct copy of a September 8, 2009 email from Neil Goteiner to Andrew Pribe.

23. Attached hereto as Exhibit 22 is a true and correct copy of a September 11, 2009 email from Neil Goteiner to Andrew Pribe.

24. Attached hereto as Exhibit 23 is a true and correct copy of a September 11, 2009 email from Andrew Pribe to Neil Goteiner.

25. Attached hereto as Exhibit 24 is a true and correct copy of a September 11, 2009, 2:14pm, email from Neil Goteiner to Andrew Pribe.

26. Attached hereto as Exhibit 25 is a true and correct copy of a September 11, 2009, 2:32pm, email from Neil Goteiner to Andrew Pribe.

27. Attached hereto as Exhibit 26 is a true and correct copy of a September 14, 2009 letter from Andrew Pribe to Neil Goteiner.

28. Attached hereto as Exhibit 27 is a true and correct copy of a compilation of meet-and-confer email communications between Neil Goteiner and Andrew Pribe.

29. Attached hereto as Exhibit 28 is a true and correct copy of excerpts from an IRS log of communications reflecting informants that was produced to Defendants by the U.S. Attorney's Office.

30. Attached hereto as Exhibit 29 are true and correct copies of correspondence with the IRS regarding Monex abatement packages from October 23, 2006 to July 19, 2007.

31. Attached hereto as Exhibit 30 is a true and correct copy of examination papers and various notes reflecting IRS communications in the nineties identifying Vince Spondello.

32. Attached hereto as Exhibit 31 is a true and correct copy of and excerpt from Saltzman: IRS Practice and Procedure (WG&L) (Thomson Reuters/RIA, 2009), ¶ 12.03.

1 I declare under penalty of perjury under the laws of the United States of
2 America that the foregoing is true and correct and that this Declaration was
3 executed this 18th day of September in San Francisco, California.
4

5 /s/ Deepak Gupta
6 Deepak Gupta
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28